

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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|--------------------------|---|--------------|
| PETRINA SMITH, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 19-1348C |
| |) | Judge Roumel |
| UNITED STATES OF AMERICA |) | |
| |) | |
| Defendant. |) | |

**THE PARTIES' SECOND JOINT MOTION TO AMEND THE PRE-CONDITIONAL
CERTIFICATION DISCOVERY AND MOTION BRIEFING SCHEDULE**

Pursuant to Rules 6(b) and 6.1 of the Rules of the United States Court of Federal Claims (RCFC), plaintiff, Petrina Smith, and defendant, the United States of America, respectfully submit this joint motion to amend the pre-conditional certification discovery and motion briefing schedule. This is our second request for an enlargement of time for this purpose. Good cause exists for this motion. We previously requested, and the Court granted, a 63-day enlargement of time for this purpose. The current conditional certification deadlines are as follows: (ECF No. 17).

| Case Event | Scheduled Date |
|---|--------------------|
| Deadline to Complete Pre-Conditional Certification Discovery | September 3, 2020 |
| Plaintiff's Deadline to File Motion for Conditional Certification | September 11, 2020 |
| Defendant's Deadline to File its Opposition to Plaintiff's Motion for Conditional Certification | October 9, 2020 |
| Plaintiff's Deadline to File her Reply in Support of Motion for Conditional Certification | October 23, 2020 |

On March 13, 2020, plaintiff served on defendant Interrogatories, Set One, and Requests

for Production of Documents, Set One. In light of delays caused by the COVID-19 pandemic, plaintiff agreed to provide defendant additional time to respond to the discovery.

On June 23, 2020, defendant produced its responses to plaintiff's Requests for Production of Documents, Set One and Responses to Interrogatories, Set One. The parties have been engaged in a meet and confer process regarding defendant's responses. On August 24, 2020, the parties agreed that defendant will supplement its discovery responses and document production with an agreed upon representative sample of putative collective action member information, and further information on defendant's nationwide policies and practices responsive to plaintiff's discovery requests. This information is necessary for plaintiff's motion for conditional certification.

Thus, the parties are respectfully requesting an enlargement of time in this matter in light of the pending supplemental production which information is necessary for plaintiff's motion. The Veterans Canteen Service (VCS) does not physically maintain employee time and attendance records; all VCS time and attendance records are warehoused at the United States Veteran's Administration (VA) service center. Currently, the VA service center is under modified operations due to the Covid-19 pandemic and cannot provide a firm timeline regarding the delivery of VCS employee time and attendance records. Thus, defendant has agreed to institute a rolling production of responsive documents to plaintiff. To date, the VA service center has not provided a response time to retrieve the VCS employee time and attendance records. In the event that the Veterans Administration service center does not respond to defendant's request for VCS time and attendance records within two months of the Court's granting of the parties' request for an enlargement, the parties will provide a status report to the Court.

Additionally, plaintiff has noticed the deposition of defendant's Labor Relations Manager identified in defendant's Rule 26 disclosures and a 30(b)(6) deposition. The parties have agreed that plaintiff will re-notice the depositions for a mutually agreeable time once the timetable for plaintiff's receipt of defendant's supplemental production and responses is confirmed.

In light of the parties' meet and confer efforts and the stage of preconditional certification discovery, the parties respectfully request that the Court extend the deadlines for completing preconditional certification discovery and motion briefing by 90 days. This enlargement of time will allow time for defendant to supplement its discovery responses and production, for plaintiff to re-notice and take the depositions, and for plaintiff to receive the necessary discovery prior to briefing her motion for conditional certification. After the Court issues a decision regarding plaintiff's motion for conditional certification, the parties shall file a Joint Status Report providing a proposal for further discovery and proceedings within 14 days.

Thus, the parties have agreed and respectfully propose the following revised schedule:

| Case Event | Current Date | Proposed Date |
|---|---------------------|----------------------|
| Deadline to Complete Pre-Conditional Certification Discovery | September 3, 2020 | December 2, 2020 |
| Plaintiffs' Deadline to File Motion for Conditional Certification | September 10, 2020 | December 9, 2020 |
| Defendant's Deadline to File its Opposition to Plaintiff's Motion for Conditional Certification | October 9, 2020 | January 7, 2020 |
| Plaintiff's Reply in Support of her Motion for Conditional Certification | October 23, 2020 | January 21, 2020 |

/s/ David R. Markham

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September 1, 2020

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of September 2020, the foregoing *The Parties' Second Joint Motion To Amend The Pre Conditional Certification Discovery And Motion Briefing Schedule* was electronically filed with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record who have enrolled and registered for receipt of filings via the Court's ECF system.

/s/ Leeanna Carcione